S T A T E O F N E W Y O R K

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I N A S S E M B L Y

January 22, 2010

Introduced by M. of A. THIELE, BURLING, COLTON, FIELDS, GALEF, GORDON, HYER-SPENCER, JAFFEE, KOON, LAVINE, MARKEY, McDONOUGH, RAIA, SCHIMEL, SPANO, ZEBROWSKI, CASTRO -- Multi-Sponsored by -- M. of A. BARRA, DenDEKKER, DESTITO, DUPREY, P. LOPEZ, McKEVITT, M. MILLER, MOLINARO, SAYWARD, SKARTADOS, TOWNSEND -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to zone pricing of gasoline; and to amend chapter 579 of the laws of 2008 amending the general business law relating to zone pricing of gasoline, in relation to making certain technical changes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 1 of section 399-ee of the general business law is relettered paragraph (a-1) and a new paragraph (a) is added to read as follows:

(A) "ADDITIONAL COSTS" MEANS ALL REPLACEMENT AND TRANSPORTATION COSTS AND TAXES INCURRED.

S 2. Paragraph (g) of subdivision 1 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

(g) "Relevant geographic market" means the geographic area of effective competition AMONG RETAIL OUTLETS.

S 3. Paragraph (m) of subdivision 1 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

(m) "Zone pricing" means the ESTABLISHMENT OF arbitrary price differences BASED ON THE GEOGRAPHICAL LOCATION OF THE RETAIL OUTLET within the relevant geographic market, [based on] WITHOUT REGARD TO the posted terminal price [or] AND ANY ADDITIONAL COSTS where the effect is to injure competition.

S 4. Subdivision 2 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD02870-04-0

2. No PRODUCER, REFINER, wholesaler, OR DEALER shall engage in zone pricing with respect to any motor fuel of like grade or quality, WHICH IS SUPPLIED TO DEALER OPERATED RETAIL OUTLETS.

S 5. Section 2 of chapter 579 of the laws of 2008 amending the general business law relating to zone pricing of gasoline is amended to read as follows:

S 2. Legislative findings and intent. The legislature hereby finds and declares that for the past several years motor fuel prices have greatly fluctuated. In some cases, price fluctuations are caused by natural market conditions. In other cases, fluctuations result from artificial manipulation of the market. One such artificial pricing manipulation is zone pricing. Zone pricing is the setting of different wholesale prices for retail motor fuel [that operate in different geographic areas] BASED ON GEOGRAPHIC LOCATION. Zone pricing increases the price of retail motor fuel for certain consumers, leading to inequities among consumers and regions around the state. Therefore, the legislature hereby declares that while natural market occurrences may lead to price fluctuations, artificial changes in motor fuel prices unfairly harm many consumers around the state.

S 6. This act shall take effect on the thirtieth day after it shall have become a law.